

Message Text

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ACTION L-03

INFO OCT-01 EUR-12 ISO-00 ERDA-05 NRC-05 ACDA-05 CIAE-00

INR-07 IO-10 NSAE-00 NSC-05 EB-07 OES-03 FEAE-00

DODE-00 PM-04 H-02 PA-01 PRS-01 SP-02 SS-15 USIA-06

COME-00 DOTE-00 FMC-01 CG-00 OFA-01 DLOS-04 SAI-01

TRSE-00 /101 W

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R 251303Z NOV 75

FM AMEMBASSY BONN

TO SECSTATE WASHDC 4618

INFO AMEMBASSY BRUSSELS

AMEMBASSY THE HAGUE

AMEMBASSY LONDON

AMEMBASSY MOSCOW

AMEMBASSY PARIS

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FOR BERNARD OXMAN, L/OES

E.O. 11652: N/A

TAGS: MNUC, TECH, EWWT

SUBJECT: BONN CONFERENCE ON BRUSSELS NUCLEAR SHIP
CONVENTION

1. FOLLOWING IS UNOFFICIAL TRANSLATION OF FIRST DRAFT
OF PAPER ON RECENT FIVE POWER MEETING ON BRUSSELS CON-
VENTION HELD IN BONN RECENTLY. THE PAPER WAS PASSED IN
CONFIDENCE AND IS SUBJECT TO CHANGE IN THE NORMAL INTRA-
GOVERNMENT CLEARING PROCESS.

2. RESULTS OF THE DISCUSSIONS ON THE RATIFICATION OF THE
BRUSSELS CONVENTION ON NUCLEAR SHIPPING OF MAY 23, 1962
HELD IN BONN ON OCTOBER 31, 1975 AMONG DELEGATIONS OF
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BELGIUM, THE FEDERAL REPUBLIC OF GERMANY, THE NETHER-
LANDS, THE UNITED KINGDOM AND THE UNITED STATES.

3. AT THE BEGINNING OF THE SESSION, THE GERMAN DELEGATION INFORMED THE OTHER DELEGATIONS THAT THE GERMAN GOVERNMENT HAD INTRODUCED A DRAFT BILL (AMENDMENT TO THE THIRD AMENDMENT OF THE NUCLEAR LAW) WHICH WAS BEFORE PARLIAMENT AND SHOULD SOON BE IN EFFECT, WHEREBY THE BRUSSELS CONVENTION ON NUCLEAR SHIPS WOULD COME INTO FORCE INTERNALLY IN THE FRG RETROACTIVE TO OCTOBER 1, 1975 INDEPENDENT OF ITS COMING INTO FORCE IN INTERNATIONAL LAW. THEREBY THE LACUNA IN GERMAN LIABILITY AND COVERAGE LAW CAUSED BY THE COMING INTO FORCE OF THE THIRD AMENDMENT AS FROM OCTOBER 1, 1975 WITHOUT THE CONCURRENT COMING INTO FORCE OF THE BRUSSELS CONVENTION WOULD BE CLOSED AFTER THE FACT. BASED IN CONFIDENCE 'IN PASSAGE OF THIS LAW, THE FRG WOULD NOT REVOKE THE OPERATION PERMIT FOR THE "OTTO HAHN". THIS NEW LAW DOES NOT EXCLUDE WARSHIPS.

4. ALTHOUGH THE IMMEDIATE PROBLEM WOULD PRESUMABLY BE SOLVED THEREBY, THE FEDERAL GOVERNMENT STILL HAS THE INTENTION TO RATIFY THE BRUSSELS CONVENTION AS SOON AS POSSIBLE, AND IS OBLIGATED IN THIS RESPECT VIS-A-VIS THE PARLIAMENT. THE FEDERAL GOVERNMENT WANTS IN THIS CONNECTION BY MEANS OF A RESERVATION TO EXEMPT WARSHIPS FROM APPLICATION OF THE CONVENTION IN ORDER TO TAKE ACCOUNT OF THE AMERICAN AND BRITISH DOUBTS AND TO FREE THE WAY FOR RATIFICATION OF THE CONVENTION BY THE STATES WHICH OPERATE NUCLEAR WARSHIPS.

5. THE AMERICAN AND BRITISH DELEGATIONS WELCOMED THE GERMAN INTENTION TO RATIFY THE CONVENTION WITH A RESERVATION, AS THEY ALSO SAW THE CONVENTION AS VERY VALUABLE FOR THE FUTURE OF CIVILIAN NUCLEAR SHIPPING. THEY WOULD BE PREPARED TO SIGN THE CONVENTION WITH THE SAME RESERVATION SIMULTANEOUSLY WITH THE GERMAN RATIFICATION. WHETHER THEY ALSO COULD RATIFY IT IN THE FORESEEABLE FUTURE WAS, HOWEVER, UNCERTAIN BECAUSE OF THE CRITICAL ATTITUDE OF THE SENATE IN LIMITED LIABILITY CASES (USA), I.E., BECAUSE OF THE PREOCCUPATION OF LIMITED OFFICIAL USE
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PARLIAMENT WITH LAWS CONSIDERED MORE URGENT (UK). THE AMERICAN GOVERNMENT WOULD, HOWEVER, FOR POLITICAL REASONS NOT SIGN THE CONVENTION IF THE NETHERLANDS GOVERNMENT WERE TO OBJECT TO THE RESERVATION OR IN THIS EVENT OBJECTIONS FROM OTHER PRESENT AND FUTURE CONTRACTING STATES COULD BE EXPECTED, THROUGH WHICH THE POLITICAL EFFECT OF THE RESERVATION TO TAKE WARSHIPS OUT OF THE DISCUSSION WOULD BE FRUSTRATED. ON THE OTHER HAND AN OBJECTION FROM COUNTRIES LIKE ZAIRE WOULD BE INNOCUOUS.

6. THE BELGIUM DELEGATION EXPLAINED THAT BELGIUM, AS A SIGNATORY STATE WOULD PROBABLY RAISE NO OBJECTIONS TO THE RESERVATION. AS DEPOSITORY, BELGIUM SEES ITSELF AS NEITHER OBLIGATED NOR EMPOWERED TO EXPRESS AN OPINION ON THE LEGAL VALIDITY OF THE RESERVATION. THE PROBLEM WOULD BE NOTIFICATION OF THE COMING INTO FORCE OF THE CONVENTION, IF NONE OF THE CONTRACTING STATES HAVE

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INFO AMEMBASSY BRUSSELS

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EXPRESSLY RECOGNIZED THE RESERVATION AS VALID.
BELGIUM WOULD LIKE TO WORK OUT PRECISE WORDING FOR A
NOTIFICATION OF THE GERMAN RATIFICATION AND THE
RESERVATION WHICH, BASED ON THE WORDING OF THE CONVEN-

TION, WOULD IMPUTE THE COMING INTO FORCE THROUGH THE GERMAN RATIFICATION BUT WOULD LEAVE TO THE CONTRACTING PARTIES THE LEGAL EVALUATION OF THE RESERVATION AND ITS LEGAL CONSEQUENCES WITHOUT REQUESTING THEIR OPINION. OBJECTIONS WOULD EQUALLY BE NOTIFIED ALONG WITH THE LEGAL VIEW OF THE OBJECTING STATE. THE AMERICAN AND BRITISH DELEGATIONS EXPLAINED THAT ON A SIMILAR SITUATION THEY WOULD ACT LIKEWISE.

7. THE NETHERLANDS GOVERNMENT (SIC) RESERVED ITS LIMITED OFFICIAL USE
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POSITION. THEY MUST PUT THE PROBLEM BEFORE THEIR GOVERNMENT, AS THE GOVERNMENT HAD EXPLAINED TO PARLIAMENT IN CONNECTION WITH RATIFICATION OF THE CONVENTION, THAT THE GOVERNMENT FAVORED THE CONVENTION PRECISELY BECAUSE OF THE INCLUSION OF WARSHIPS. IF THE GERMAN RATIFICATION AND THE RESERVATION WERE PUBLISHED IN THE "TRACTATENBLAD", QUESTIONS IN PARLIAMENT AND IN PUBLIC MUST BE RECKONED WITH, AS WELL AS MISINTERPRETATIONS OF GERMAN INTENTIONS. THE GOVERNMENT MUST DECIDE WHETHER TO ANTICIPATE THESE QUESTIONS WITH A BRIEFING FOR THE PARLIAMENT OR ONLY TO ANSWER THEM. A HARMONIZED DUTCH-AMERICAN-BRITISH APPROACH COULD BE HELPFUL.

8. THE GERMAN, AMERICAN, BELGIAN AND BRITISH DELEGATIONS AGREED THAT THE RESERVATION IS LEGALLY ADMISSABLE AND THAT A NETHERLAND OBJECTION WOULD BE LEGALLY WITHOUT EFFECT IF THE NETHERLANDS GOVERNMENT SHOULD NOT EXPRESSLY PRECLUDE THE COMING INTO EXISTENCE OF TREATY RELATIONS WITH THE FRG. IN THIS CASE THE CONVENTION COULD COME INTO FORCE WITH RESPECT TO THE REMAINING CONTRACTING STATES. AT PRESENT, HOWEVER, BECAUSE OF THE INTERNAL POLITICAL SITUATION, IT WOULD BE IMPOSSIBLE TO SPEAK WITH PORTUGAL OR LEBANON CONCERNING THEIR ATTITUDE TOWARD THE RESERVATION. POLITICALLY A NETHERLANDS OBJECTION SHOULD NOT BE RISKED.

9. IT WAS AGREED THAT THE GERMAN DELEGATION WOULD PULL TOGETHER THE RESULTS OF THE DISCUSSION IN A NON-PAPER WHICH HAS HEREBY BEEN DONE -- ON THE BASIS OF WHICH EACH DELEGATION WOULD SEEK GUIDANCE FROM THE COMPETENT PARTS OF ITS GOVERNMENT CONCERNING FURTHER ACTION. THE BELGIAN DELEGATION WOULD SEND DRAFT WORDING FOR THE NOTIFICATION OF THE GERMAN RATIFICATION WITH A RESERVATION, AND THE AMERICAN DELEGATION WOULD CONSULT THE SOVIET GOVERNMENT AND THE GERMAN DELEGATION THE FRENCH GOVERNMENT ON THEIR NEWS CONCERNING THE WARSHIP QUESTION. THE INDIVIDUAL POSITIONS SHOULD BE EXCHANGED AMONG THE EMBASSIES IN BONN. IN THIS WAY IT SHOULD ALSO BE CLARIFIED WHETHER A FURTHER MEETING OF THE FIVE

DELEGATIONS IS NECESSARY.

HILLENBRAND

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